

Application No.: 09/760,377**Atty Docket: BLFR 1003-1****REMARKS**

Claims 1-95 are currently pending in this application. The Examiner has rejected claims 1-95 under 35 U.S.C. § 102(e) as being anticipated by Landvater (U.S. Patent No. 6,609,101, hereafter "Landvater"). Applicant respectfully traverses the rejections in the remarks that follow.

This response is organized to first address independent claims 20, 39, 58 and 77, because these claims include fewer elements than claim 1. Working with fewer elements at a time sharpens the focus. Next, claim 1 is addressed and finally the dependent claims.

Interview and Technology Tutorial Report

Applicant appreciates the opportunity to present a tutorial on the technology disclosed in multiple applications pending before Examiner Van Doren and her colleagues. A copy of the presentation used during a WebEx conference was provided to the Examiner is attached. During the conference, we followed the slides.

The presentation went longer than planned, so there was not much time to discuss the Landvater reference or the rejections based on Landvater. No amendments were proposed and no agreements were reached.

Rejection Under 35 U.S.C. § 102(e) of Claim 20 (Open to Buy Reports)

The Examiner rejects **claim 20 (Open to Buy Reports)** under 35 U.S.C. § 102(e) as anticipated by Landvater (U.S. 6,609,101). Claim 20 includes the limitations:

a causal calendar utilized by the forecasting program to generate the output, said causal calendar including for a plurality of events attributes of a good identifier, a location identifier, the event start date, the event stop date, and the event type; and

an additional analysis programs in the set of analysis programs generating data reported in open to buy reports.

These limitations are not found in Landvater.

Landvater lacks a causal calendar, although it tracks promotion start dates. See Cols. 17-18. Landvater's promotion start date tracking is not a general causal calendar adapted to a variety of event types. There is teaching to include an event type when

Application No.: 09/760,377**Atty Docket:** BLFR 1003-1

tracking promotions; Landvater teaches logic triggered by a binary condition of promotion start date or not:

FIG. 19 depicts alternate logic to that represented in steps 227 and 228 in FIG. 13b which is used for calculating the initial distribution of products to a retail store **23 for the first day of a promotion**. ... The initial distribution logic is not used for non-promotional forecasts, and it is **not used for promotional forecasts in day 2 [two], through the end of the promotion**.

Col. 17, lines 18-31. Essentially, Landvater uses the first day to trigger an initial distribution safety time so that goods arrive with an extra margin of time before a promotion. Col. 17, lines 32-57. Landvater's algorithm includes additional steps, such as a check for override percentages (col. 18, lines 3-20), but there is no specification of a calendar having the claimed elements.

For lack of a causal calendar with the elements claimed, including an event type for handling of multiple types of causal events, Landvater cannot meet the Examiner's burden for showing anticipation.

Landvater also lacks an open to buy report. This term of art is invoked and applied on page 9 of the application:

Open-to-buy (OTB) management: In OTB management, future inventory levels are predicted based on current inventory, expected selling, and expected receipts; the future inventory levels are then compared to budgeted levels in order to determine whether the current sales and ordering plan will result in exceeding the inventory budget (typically at the department level or higher). Because the future rate of selling is critical to calculating what future inventory levels will be, the OTB system or OTB activity should find it is helpful to get the causal event information from the causal event calendar in order to make the most accurate determination of the future rate of selling for an good.

Similarly, this term of art is defined in multiple web-based references, such as http://retailindustry.about.com/od/abouttheretailindustry/l/bld_otb.htm, which explains, "What is Open-to-Buy? Definition: Open-to-Buy is the difference between planned purchases and stock already ordered; the dollar amount of merchandise that a buyer can order for a particular period." See also, <http://retailindustry.about.com/gi/dynamic/offsite.htm?site=http%3A%2F%2Fwww.planfact.co.uk%2Fcontrol.htm>. Neither the term "open to buy" nor the concept as it is used in the art appear in Landvater. The financial planning paragraph, col. 20, lines 29-47, does not provide a written description of open to buy reporting that would anticipate claim 20. Therefore, the open to buy integrated

Application No.: 09/760,377**Atty Docket: BLFR 1003-1**

reporting limitation is a further basis for allowing the claim.

Applicant respectfully submits that claim 20 (Open to Buy Reports) should be allowable over Landvater.

Rejection Under 35 U.S.C. § 102(e) of Claim 39 (Markdown Management Reports)

The Examiner rejects **claim 39 (Markdown Management Reports)** under 35 U.S.C. § 102(e) as anticipated by Landvater (U.S. 6,609,101). Claim 39 includes the limitations:

a causal calendar utilized by the forecasting program to generate the output, said causal calendar including for a plurality of events attributes of a good identifier, a location identifier, the event start date, the event stop date, and the event type; and

an additional analysis program in the set of analysis programs generating data reported in markdown management reports.

These limitations are not found in Landvater.

Landvater lacks a causal calendar, as explained above. A concise list of factors taken into account by Landvater can be extracted from the background section, where failings of manufacturing systems are cataloged. See, e.g., col. 1, lines 40-50. Neither the promotion discussion or any other part of the Landvater disclosure discusses markdowns or discounts. Even the promotion section of Landvater, cols. 17-19, makes no mention of markdowns. One of the event types specifically called out in application, at page 4 is price promotions.

For lack of a causal calendar with the elements claimed, including an event type for markdowns, Landvater cannot meet the Examiner's burden for showing anticipation.

Landvater also lacks a markdown management report, which is not surprising given the absence of any mention of markdowns. This term of art is invoked and applied on page 9 of the application:

Markdown management: A markdown management system or markdown activity within a system typically determines the optimal timing and level of markdowns of a seasonal or fashion program in order to sell the total purchased quantity by a predetermined "out date" while maximizing revenue.

In order for a markdown management system to perform, it needs to query the causal event calendar in order to determine what event occur between the date of the markdown analysis and the "out date" in order to calculate the expected selling. For example, an good that has no event planned before its "out date" might require a markdown in order to reach full sell-through based

Application No.: 09/760,377**Atty Docket: BLFR 1003-1**

on the rate of selling to-date; however, that same good with the same selling to-date may not require a markdown if some other event – a visual promotion, perhaps – is planned to take effect between the date of analysis and the “out date.” Because the future likely rate of selling is critical to calculating what markdowns and markdown levels will be required, the Markdown system or Markdown activity should find it is helpful to get the causal event information from the causal event calendar in order to make the most accurate determination of what markdowns are best.

The Examiner seems to understand that Landvater lacks markdown management, as none of the discussion at pages 3-4 of the office action apply passages of Landvater to markdown management. Therefore, the markdown management integrated reporting limitation is a further basis for allowing the claim.

Applicant respectfully submits that claims 39 (Markdown Management Reports) should be allowable over Landvater.

Rejection Under 35 U.S.C. § 102(e) of Claim 58 (Bottom-Up Planning Reports) and 77 (Top-Down Planning Reports)

The Examiner rejects claims 58 & 77 under 35 U.S.C. § 102(e) as anticipated by Landvater (U.S. 6,609,101). Claims 58 & 77 include the limitations:

a causal calendar utilized by the forecasting program to generate the output, said causal calendar including for a plurality of events attributes of a good identifier, a location identifier, the event start date, the event stop date, and the event type;

These limitations are not found in Landvater.

Landvater lacks a causal calendar, as explained above. For lack of a causal calendar with the elements claimed, including an event type for handling of multiple types of causal events, Landvater cannot meet the Examiner's burden for showing anticipation.

Applicant respectfully submits that claims 58 & 77 should be allowable over Landvater.

Rejection Under 35 U.S.C. § 102(e) of Claims 1, 2-19, 21-38, 40-57, 59-76, 77-95

The Examiner rejects claims 1, 2-19, 21-38, 40-57, 59-76, 77-95 under 35 U.S.C. § 102(e) as anticipated by Landvater (U.S. 6,609,101).

Application No.: 09/760,377

Atty Docket: BLFR 1003-1

Claim 1

Claim 1 includes the limitations:

a causal calendar utilized by the forecasting program to generate the output, said causal calendar including for a plurality of events attributes of a good identifier, a selling location identifier, the event start date, the event stop date, and the event type; and

one or more additional analysis programs in the set of analysis programs generating data reported in at least two of:

open to buy reports;

markdown management reports; or

bottom-up planning reports

These limitations are not found in Landvater.

Landvater lacks a causal calendar, as explained above. For lack of a causal calendar with the elements claimed, including an event type for handling of multiple types of causal events, Landvater cannot meet the Examiner's burden for showing anticipation.

Landvater also lacks the claimed two-out-of-three of open to buy reports, markdown management reports or bottom-up planning reports. In the context of claims 20 and 39, substantial attention is devoted to the lack of open to buy or markdown management reports. Lacking these report types, Landvater cannot meet the Examiner's burden for showing anticipation.

Therefore, claim 1 should be allowable over Landvater.

Claims 2-5, 21-24, 40-43, 59-62 and 78-81

Claims 2-5, 21-24, 40-43, 59-62 and 78-81 include limitations that specify how good and event identifier attributes apply to individual or groups of goods and selling locations:

a single good at a single selling location

a single good at a group of selling locations

a group of goods at a single selling location

a group of goods at a group of selling locations

These variations on a causal calendar, which includes the group and selling location identifier attributes, are not found in Landvater. Again, Landvater does not include the claimed causal event calendar, so it is not surprising that variations on interpretation of

Application No.: 09/760,377**Atty Docket:** BLFR 1003-1

group and selling location identifier attributes in a causal calendar are lacking.

Therefore, claims 2-5, 21-24, 40-43, 59-62 and 78-81 should be allowable over Landvater.

Claims 6, 25, 44, 63 and 82

Claims 6, 25, 44, 63 and 82 include the limitations:

a factor corresponding to the impact of the event on sales

This limitation is not found in Landvater. First, Landvater does not include the claimed causal calendar. Second, the date information that Landvater is not maintained with "a factor corresponding to the impact of the event on sales". In the passages cited, col. 12, lines 25-30, holiday impacts and seasonal profiles are mentioned, but not a causal calendar. Holidays and retailer caused events are not quite the same. The list of causal events on pages 4-5 does not include what week Easters in. From page 3 of the application, "Causal events may include retailer decisions that will affect the rate of sale of one or more goods in one or more selling locations for some period of time, and exogenous factors that will affect the rate of sales of one or more goods for some period of time." The other passage cited, col. 17, lines 5-55 relates to promotions. Initial distribution safety time in this passage does not express the "impact of the event on sales", but rather a preferred planning attribute associated with running a promotion. Receiving goods a day or two early to facilitate retail display is not the same as adding to a causal calendar "a factor corresponding to the impact of the event on sales."

Therefore, claims 6, 25, 44, 63 and 82 should be allowable over Landvater.

Claims 7-19, 26-38, 45-53, 64-72 and 83-95

Claims 7-19, 26-38, 45-53, 64-72 and 83-95 should be allowable for at least the same reasons as the claims from which they depend.

Applicant respectfully submits that claims 1, 2-19, 21-38, 40-57, 59-76, 77-95 should be allowable over Landvater.

Application No.: 09/760,377

Atty Docket: BLFR 1003-1

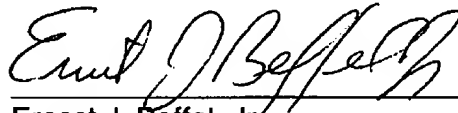
CONCLUSION

Applicants respectfully submit that the pending claims are now in condition for allowance and thereby solicit acceptance of the claims, in light of these amendments.

Applicants again express their appreciation for the Examiner's attentiveness to our technology tutorial and look forward to further interviews. If the Examiner would find some clarification or amendment to be helpful to the prosecution and allowance of this or any of the related applications that the Examiner is considering, the undersigned can ordinarily be reached at his office at (650) 712-0340 from 8:30 to 5:30 PST, M-F and can be reached at his cell phone (415) 902-6112 most other times.

Respectfully submitted,

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